

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

TUESDAY, THE 27TH MARCH 2007 / 6TH CHAITHRA 1929

WP(C).No. 6395 of 2006(J)

PETITIONER:

**CAPT. SEENU JOSEPH, D/O. JOSEPH,
AGED 30 YEARS, CAPT. (SENIOR SISTER), INHS,
SANJIVANI, KOCHI, RESIDING AT C.B. APARTMENTS,
NEAR YMCA, PALARIVATTOM, PIN-682 025.**

**BY ADV. SRI.GEORGE CHERIAN KARIPPAPARAMBIL
SRI.R.SREERAJ**

RESPONDENTS:

- 1. UNION OF INDIA,
REPRESENTED BY ITS SECRETARY TO GOVT. OF INDIA,
MINISTRY OF DEFENCE, ARMY HEAD QUARTERS, NEW DELHI.**
- 2. THE DIRECTOR GENERAL,
MEDICAL SERVICES (ARMY), ARMY HEAD QUARTERS,
ADJUTANT, GENERAL'S BRANCH, D BLOCK, NEW DELHI.**

BY ADV. SRI.D.PREM KAMATH, CGC for R1 & R2

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 27/03/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS:

- EXT.P1: COPY OF THE LETTER NR – 20645/DGMC-4 DTD. 05/12/2001
ISSUED ON BEHALF OF SECOND RESPONDENT.**
- EXT.P2: COPY OF THE LETTER NO.20645/DGMS-4A DTD. 06/05/03 ISSUED
ON BEHALF OF THE SECOND RESPONDENT.**
- EXT.P3: COPY OF THE LETTER NO.20645/DGMS-4A DTD. 05/12/05 ISSUED
ON BEHALF OF SESCOND RESPONDENT.**
- EXT.P4: COPY OF THE ORDER NO.B/70034/P/DGMS-4A DTD. 24/11/2006 ISSUED
ON BEHALF OF THE ADJUTANT GENERAL.**
- EXT.P5: COPY OF THE LETTER NO.780506/3/M-4 DTD. 10TH NOVEMBER,2006
ALONG WITH APENDIX E, ISSUED ON BEHALF OF THE DDMS,
HEADQUARTERS SOUTHERN COMMAND, PUNE.**

2ND RESPONDENT'S EXHIBITS:

- EXT.R2(A); COPY OF POLICY LETTER NO.8/70030/DGMS-4A DTD. 31ST
DECEMBER, 1999.**
- EXT.R2(B): COPY OF THE RELEVANT PORTION OF JUDGMENT 08/06/2005
OF THE FAMILY COURT, ERNAKULAM.**
- EXT.R2(C); COPY OF WRITTEN EXPLANATION DTD. 01/10/2005.**

/TRUE COPY/

KSS

K.K. DENESAN, J.

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W.P.(C) No. 6395 OF 2006 J
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Dated this the 27th March, 2007

J U D G M E N T

The petitioner put in her resignation while she was working as Captain (Senior Sister), INHS, Sanjivani. The request was turned down as per Ext. P3 order dated 5-12-2005 without assigning any reason. One of the contentions urged in the writ petition is that Ext. P3 is a non-speaking order and liable to be set aside.

2. In the counter affidavit filed on behalf of the respondents it is stated that the reason for rejecting the request of the petitioner to resign from the office was that she applied on the ground of marital disharmony between herself and her spouse. Paragraph 6 of the counter affidavit, however, says as follows:

"However, keeping an open mind in the matter, if the parents of the petitioner are really suffering from any serious ailments warranting petitioner's full time attendance and attention, petitioner is free to apply afresh through proper channel giving the full details of the prevailing facts and circumstances and it is assured that petitioner's request will be considered on

merits."

3. Counsel for the petitioner submits that the petitioner wants to file a fresh application as her parents have been suffering from serious ailments and her physical presence has become essential to look after them and that the writ petition may be disposed of without prejudice to the right of the petitioner to move the authorities and seek orders as stated in paragraph 6 of the counter affidavit.

4. Heard counsel for the respondents also.

5. I think, the request made by the counsel for the petitioner deserves to be granted. The writ petition is disposed of reserving the freedom of the petitioner to act in terms of paragraph 6 of the counter affidavit and seek orders from the competent authority.

K.K. DENESAN
JUDGE

jan/